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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
	:	
EAST 44 TH REALTY, LLC,	:	Case No 05-16167 (RDD)
	:	
Debtor.	:	
	:	
-----	X	
G SQUARED ASSOCIATES LLC, G SQUARED	:	
MANAGEMENT LLC, ALLEN GUTTERMAN,	:	
and MARK GUTTERMAN,	:	
	:	
Appellants	:	
	:	
-against-	:	
	:	
DAVID R. KITTAI, as Chapter 11 Trustee of East	:	
44 th Realty LLC,	:	
	:	
Appellee.	:	
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APPELLANT'S STATEMENT OF ISSUES ON APPEAL
AND DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD
(NOTICE OF APPEAL FILED SEPTEMBER 20, 2007)

G Squared Associates, LLC, G Squared Management LLC, Allen Gutterman and Mark Gutterman (collectively the “Appellant’s”), pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, by and through their undersigned counsel, hereby submit their statement of the issues to be presented on appeal and designation of the items to be included in the record on appeal, in connection with their appeal from the Order Authorizing Release of Escrowed Funds to Estate in Accordance with Court’s August 9, 2007 Order (the “Order”), issued by the United States Bankruptcy Court for the Southern District of New York (Hon. Robert D. Drain) (the “Bankruptcy Court”) on September 12, 2007, granting the motion of David Kittay, as the Chapter 11 Trustee (“Trustee”) dated August 23, 2007 for such release (“Motion”).

I. STATEMENT OF ISSUES ON APPEAL

1. Whether the Bankruptcy Court erred in ruling that the Trustee had complied with his contractual obligation to provide notice of intent to close, in advance of declaring a default for failure to close.

2. Whether the Bankruptcy Court erred when it entered the order without explaining its analysis as to why Appellant’s equitable arguments were being rejected and/or fully setting forth the basis for its decision authorizing the release of escrowed funds.

3. Whether the Bankruptcy Court erred in dismissing Appellants’ equitable arguments against the release of all or a portion of escrowed funds to the Debtor’s estate.

4. Whether the Bankruptcy Court erred in rejecting Appellants’ arguments that the Trustee’s failure to grant a reasonable adjournment to close was an abuse of discretion, arbitrary or irrational.

5. Whether the Bankruptcy Court erred in granting the Motion because it conferred an undeserved inequitable windfall upon the Debtor's estate and/or effected an unwarranted forfeiture.

6. Whether the Bankruptcy Court erred by granting the Motion at the conclusion of the hearing without first having reviewed the documents to be provided by Appellants' counsel, which the Bankruptcy Court indicated during the hearing it would consider following the hearing.

7. Did the Bankruptcy Court err in deciding the Motion in summary fashion, thus allowing the Trustee to take G Squared's property without due process of law.

8. Did the Bankruptcy Court err in not finding the sale agreement to be impossible to perform, and not directing the return of the escrowed deposit to G Squared.

9. Did the Bankruptcy Court err by granting the Motion.

II. DESIGNATION OF RECORD

Appellants hereby designate the following items to be included in the record on appeal, together with all exhibits, attachments, supplements and documents attached or annexed thereto and/or incorporated by reference therein:

Item No.	Bankruptcy Case (No. 05-16167- RDD)	Description
1	288	Notice of Hearing/ <i>Notice of Trustee's Motion for an Order in Accordance with Court's August 9, 2007 Order Authorizing Release of Escrowed Funds</i> filed by Judith Siegel on behalf of David Kittay. With a hearing to be held on 9/12/07 at 10:00 a.m. at Courtroom 610 (RDD) (Siegel, Judith) (Entered: 8/23/2007)
2	289	Motion to Approve/ <i>Motion of the Chapter 11 Trustee for an Order in Accordance with Court's August 9, 2007 Order Authorizing Release of Escrowed Funds</i> (related

Item No.	Bankruptcy Case (No. 05-16167- RDD)	Description
		document(s) <u>288</u> filed by Judith Siegel on behalf of East 44 th Realty, LLC. (Attachments: # <u>1</u> Exhibits A and B # <u>2</u> Exhibits C, D, E and F # <u>3</u> Exhibit G # <u>4</u> Exhibits H, I, J and K # <u>5</u> Exhibits L and M) (Siegel, Judith) (Entered: 8/23/2007)
3	291	Certificate of Service (related document(s) <u>288</u> , <u>289</u>) filed by Judith Siegel on behalf of David Kittay. (Siegel, Judith) (Entered: 8/23/2007)
4	296	Objection to Motion <i>for Authority to Release Funds from Escrow</i> (related document(s) <u>289</u>) filed by Paul Rubin on behalf of G Squared Management LLC, G Squared Associates LLC (Attachments # <u>1</u> Exhibit) (Rubin, Paul) (Entered: 9/27/2007)
5	297	Declaration of <i>Larry I. Glick in Opposition to Motion for Authority to Release Funds from Escrow</i> filed by Paul Rubin on behalf of G Squared Management LLC, G Squared Associates LLC (Attachments # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D) (Rubin, Paul) (Entered: 9/27/2007)
6	298	Affidavit of <i>Joshua J. Angel in Opposition to Motion to Release Deposit from Escrow</i> (related document(s) <u>289</u>) filed by Paul Rubin on behalf of G Squared Management LLC, G Squared Associates LLC (Rubin, Paul) (Entered: 9/7/2007)
7	299	Affidavit of Service (related document(s) <u>297</u> <u>296</u> , <u>298</u>) filed by Paul Rubin on behalf of G Squared Management LLC, G Squared Associates LLC (Rubin, Paul) (Entered: 9/7/2007)
8	301	Certificate of Service of <i>Objection to Motion for Authority to Release Funds from Escrow, Declaration of Larry I. Glick in Opposition to Motion for Authority to Release Funds from Escrow, and Affidavit of Joshua J. Angel in Opposition to Motion to Release for Deposit from Escrow</i> (related document(s) <u>289</u>) filed by Paul Rubin on behalf of G Squared Management LLC, G Squared Associates LLC (Rubin, Paul) (Entered: 9/7/2007)
9	302	Response to Motion <i>Response to Objection to Motion for Authority to Release Funds from Escrow</i> (related document(s) <u>289</u>) filed by Judith Siegel on behalf of David Kittay with hearing to be held on 9/12/2007 at 10:00 a.m. at Courtroom 610 (RDD) (Attachments: # <u>1</u> Exhibit Affidavit of Judith Lee Siegel # <u>2</u> Exhibit B -- In re Target Two Case) (Siegel, Judith) (Entered: 9/11/2007)

Item No.	Bankruptcy Case (No. 05-16167- RDD)	Description
10	303	Certificate of Service (related document(s) <u>302</u>) filed by Judith Siegel on behalf of David Kittay (Siegel, Judith) (Entered: 9/11/2007)
11	304	Affidavit of <i>Adam T. Berkowitz in Further Support of Motion to Release Deposit from Escrow</i> (related document(s) <u>289</u>) filed by Adam T. Berkowitz on behalf of David Kittay (Berkowitz, Adam) (Entered: 9/11/2007)
12	305	Affidavit of Service of <i>David C. Cooper of the Affidavit of Adam T. Berkowitz in Further Support of Motion to Release Deposit from Escrow</i> (related document(s) <u>304</u>) filed by Adam T. Berkowitz on behalf of David Kittay (Berkowitz, Adam) (Entered: 9/11/2007)
13	306	Order Authorizing Release of Funds to Estate in Accordance with Court's August 9, 2007 Order (Related Doc # <u>289</u>) signed on 9/12/2007 (Li, Dorothy) (Entered: 9/13/2007)
14	315	Transmittal Letter dated September 12, 2007 to Judge Robert D. Drain with draft of Stipulations of Settlement

Dated: New York, New York
October 1, 2007

Respectfully submitted,

HERRICK FEINSTEIN LLP
Attorneys for Appellants

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